

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

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T.R.A. DOCKET ROOM

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PETITION OF TENNESSEE-  
AMERICAN WATER COMPANY TO  
CHANGE AND INCREASE CERTAIN  
RATES AND CHARGES ...

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DOCKET NO. 04-00288

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**CHATTANOOGA MANUFACTURERS ASSOCIATION'S RESPONSES TO  
TENNESSEE-AMERICAN WATER COMPANY'S REQUEST FOR DISCOVERY**

Pursuant to *Rules 26, 33 and 34* of the *Tennessee Rules of Civil Procedure* and *Tenn Code Ann § 4-5-301, et seq.*, Intervenor Chattanooga Manufacturers Association ("CMA") submits the following objections to the Request for Production of Documents of Tennessee-American Water Company ("TAWC" or the "Company").

**OBJECTIONS**

1. CMA objects to Discovery Request No. 1 as being overbroad and premature. The pre-hearing officer's schedule for direct testimony sets a deadline for any testimony that may be submitted by CMA as January 11, 2005, any such testimony will be provided on or before that date, and such testimony will present the facts supporting the contentions of CMA.

2. CMA objects to the definitions and instructions contained in the requests for discovery to the extent that the definitions and instructions attempt to impose on CMA a burden or obligation greater than that required by the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

3. CMA objects to the requests to the extent they call for information and the production of documents, which are protected from disclosure by the attorney-client privilege, the attorney work product doctrine or any other applicable privilege or protection. CMA objects to TAWC's requests to the extent that the Company is attempting to impose on CMA obligations with regard to identification of privileged documents beyond those required by the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings. CMA objects to the production of any documents prepared by it subsequent to the filing of this litigation or contested case.

4. CMA objects to Company's requests to the extent that the Company is attempting to impose on CMA obligations to supplement its responses beyond those required by the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

5. CMA objects to Company's requests to the extent that Company is attempting to require CMA to provide information and produce documents beyond those in its possession, custody or control as that phrase is used in the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

6. CMA objects to Company's requests to the extent that they seek information and documents that are readily available through public sources or are in the Company's own possession, custody or control. It is unduly burdensome and oppressive to require CMA to respond or produce documents that are equally or more available to Company.

7. CMA objects to the requests to the extent that they seek information relating to matters not at issue in this litigation or reasonably calculated to lead to the discovery of admissible

evidence. By providing information in response to these interrogatories and requests, CMA does not concede that such information is relevant, material or admissible in evidence. CMA reserves all rights to object to the use of such information as evidence.

8. CMA's objections and responses to these requests are based on information now known to it. CMA reserves the right to amend, modify or supplement its objections and responses if it learns of new or different information.

### **OBJECTIONS TO DISCOVERY REQUESTS**

Subject to and without waiving any of the objections, the following additional objections are provided:

**REQUEST NO. 1:** State each fact that you rely on to support your contention(s), position(s) or belief(s) that any of the request(s) for relief, including any increase in rates, made by TAWC in TRA Docket No. 04-00288 should not be approved by the Tennessee Regulatory Authority ("TRA")

**RESPONSE 1:** CMA objects to Discovery Request No. 1 as being overbroad and premature. The pre-hearing officer's schedule for direct testimony sets a deadline for direct testimony to be submitted by CMA on January 11, 2005, and CMA intends to supply any such testimony on or before that date illustrating the facts supporting the contentions of CMA.

**REQUEST NO. 2:** Identify all persons known to you, your attorney or other agent who have knowledge, information or possess any document(s) or claim to have knowledge, information or possess any document(s) which support your answer to Request No. 1 above.

**RESPONSE 2:** See Response to Discovery Request 1. In addition to being premature, CMA objects to Discovery Request No. 2 as being overbroad, vague, ambiguous and unduly burdensome.

**REQUEST NO. 3:** Identify each document, photograph or any other article or thing whatsoever, which you rely on to corroborate any part of your contention(s), position(s) or belief(s) that any of the request(s) for relief, including any increase in rates, made by TAWC in TRA Docket No. 04-00288 should not be approved, whether as to the issues of credibility or any other issue, or which is adverse to these same contention(s) or belief(s).

**RESPONSE 3:** See Response to Discovery Request 1. In addition to being premature, CMA objects to Discovery Request No. 3 as being overbroad, vague, ambiguous, indecipherable and unduly burdensome.

**REQUEST NO. 4:** With respect to each person you expect to call as a witness, including any expert witness, regarding this matter, state or provide:

- a. The witness' full name and work address;
- b. Each subject matter about which such witness is expected to testify;
- c. The substance of the facts and opinions to which any expert is expected to testify;
- d. A summary of the grounds or basis of each opinion to which such witness is expected to testify;
- e. Whether or not the expert has prepared a report, letter or memorandum of his findings, conclusions or opinions;

f. The witness' complete background information, including current employer, educational, professional and employment history and qualifications within the field in which the witness is expected to testify, and identify all publications written or presentations made in whole or in part by the witness;

g. An identification of any matter in which the expert has testified (through deposition or otherwise) by specifying the name, docket number and forum of each case, the dates of the prior testimony and the subject of the prior testimony, and identify the transcripts of any such testimony;

h. The identity of any person with whom the witness consulted or otherwise communicated in connection with his expected testimony;

i. The terms of the retention or engagement of each expert including but not limited to the terms of any retention or engagement letters or agreements relating to his/her engagement, testimony and opinions, as well as the compensation to be paid for the testimony and opinions;

j. The identity of all documents or things shown to, delivered to, received from, relief upon or prepared by any expert witness, which are related to the witness' expected testimony in this case, whether or not such documents are supportive of such testimony, including without limitation all documents or things provided to that expert for review in connection with testimony and opinions; and

k. The identity of any exhibits to be used as a summary of or support for the testimony or opinions provided by the expert.

**RESPONSE 4:** See Response to Discovery Request 1. In addition to being premature, CMA objects to Discovery Request No. 4 as being overbroad, vague, ambiguous and unduly burdensome.

At this time, expert(s) have not been determined for purposes of testimony at trial. CMA will identify experts, if any, within the time limit set forth by the scheduling order for filing direct testimony in this case.

**REQUEST NO. 5:** Provide any and all documents identified or specified in your answers or responses to the discovery requests served upon you in this matter.

**RESPONSE 5:** See Response to Discovery Request 1.

**REQUEST NO. 6:** Provide any and all documents and things relied upon by any CMA witness in submission of testimony in this matter.

**RESPONSE 6:** See Response to Discovery Request 1. In addition to being premature, CMA objects to Discovery Request No. 6 as being overbroad, vague, ambiguous and unduly burdensome.

**REQUEST NO. 7:** Provide any and all expert reports which have been obtained from any expert.

**RESPONSE 7:** See Response to Discovery Request 1. In addition to being premature, CMA objects to Discovery Request No. 7 as being overbroad, vague, ambiguous and unduly burdensome. CMA further objects to Discovery Request No. 7 as requesting irrelevant information.

**REQUEST NO. 8:** Provide each document, photograph or any other article or thing whatsoever, upon which you rely in support of your contention(s), position(s) or belief(s) that any of the request(s) for relief, including any increase in rates, made by TAWC in TRA Docket No. 04-00288

should not be approved.

**RESPONSE 8:** See Responses to Discovery Request 1 and 3.

**REQUEST NO. 9:** Provide in electronic media and in hard copy all workpapers and other documents, generated by or relied upon by all CMA witnesses.

**RESPONSE 9:** See Response to Discovery Request 1. In addition to being premature, CMA objects to Discovery Request No. 9 as being overbroad, vague, ambiguous, indecipherable and unduly burdensome. Subject to and without waiving any of its objections, CMA will provide at the appropriate time in either paper or electronic format the non-duplicative workpapers relative to this matter of its testifying experts, if any are identified.

**REQUEST NO. 10:** Please produce a copy of all trade articles, journals, treatises and publications of any kind in any way utilized or relied upon by any of CMA's proposed expert witnesses in evaluating, reaching conclusions or formulating an opinion in the captioned matter.

**RESPONSE 10:** See Response to Discovery Request 1. In addition to being premature, CMA objects to Discovery Request No. 10 as being overbroad, vague, ambiguous and unduly burdensome.

**REQUEST NO. 11:** Please produce a copy of all articles, journals, books or speeches written by or co-written by any of CMA's expert witnesses, whether published or not.

**RESPONSE 11:** See Response to Discovery Request 1. In addition to being premature, CMA objects to Discovery Request No. 11 as being overbroad, vague, ambiguous and unduly burdensome.

**REQUEST NO. 12:** Please produce any and all documentation, items, reports, data, communications and evidence of any kind that CMA intends to offer as evidence at the hearing or to refer to in any way at the hearing;

**RESPONSE 12:** See Response to Discovery Request 1. In addition to being premature, CMA objects to Discovery Request No. 12 as being overbroad, vague, ambiguous and unduly burdensome.

**REQUEST NO. 13:** Please produce copies of any and all documents referred to or relied upon in responding to these discovery requests.

**RESPONSE 13:** None, other than the filings in this matter.

**REQUEST NO. 14:** Please identify each person who provided information or participated in the preparation of the responses to each of these discovery requests, and for each such person, specify the responses to which he or she provided information or participated in preparing, and describe the information provided or the participation in preparation.

**RESPONSE 14:** See Response to Discovery Request 1. Counsel for CMA assisted in the preparation of objections and responses herein.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of December, 2004, I have served the foregoing pleading either by fax, overnight delivery service or first class mail, postage prepaid, to all parties of record at their addresses shown below:

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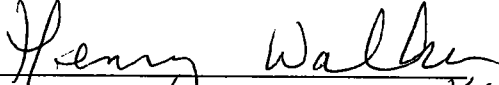
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